

PATENT

Atty Docket No.: 10018002-1

App. Ser. No.: 10/020,255

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Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1, 11, 19, 21, and 30 have been amended. Claims 15, 25, and 33 have been canceled without prejudice or disclaimer to the subject matter contained therein. Therefore, claims 1-14, 16-24, 26-32, and 34-36 are pending, of which, claims 1, 11, 19, 21, and 30 are independent.

Claims 1, 7-11, 16-18, 28, and 29 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over co-pending Application No. 10/020256.

Claims 1-3, 11, 21, 22, 27-30, 35, and 36 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Blanchard (6,347,114) ("Blanchard").

Claim 4 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Ohta et al. (6,449,021) ("Ohta").

Claims 5, 6, 8, 12, 13, 16, 23, 24, 26, 31, 32, and 34 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Nonomura et al. (6,094,234) ("Nonomura").

Claim 7 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Ellis et al. (2005/0020223) ("Ellis").

Claims 9, 10, 17, and 18 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Setogawa et al. (5,822,024) ("Setogawa").

These rejections are respectfully traversed for the reasons set forth below.

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App. Ser. No.: 10/020,255*Allowable Subject Matter*

The Applicant notes with appreciation that claims 14, 15, 19, 20, 25, and 33 were objected to as being dependent upon a rejected base claims, but allowable if rewritten in independent form. Accordingly, independent claims 1, 11, 21, and 30 have been amended to include the allowable subject matter from claims 14, 15, 25, and 33, respectively. Moreover, claim 19 has been rewritten in independent form to include all the features of the base claim. Therefore, allowance of the claims is respectfully solicited.

Provisional Double Patenting

Claims 1, 7-11, 16-18, 28, and 29 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over co-pending Application No. 10/020256.

The allowable subject matter from claims 14, 15, 25, and 33 has been amended into independent claims 1, 11, 21, and 33, respectively. Therefore, the amendment contained herein overcomes this rejection and allowance of the claims is earnestly solicited.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221

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USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-3, 11, 21, 22, 27-30, 35, and 36 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Blanchard. This rejection is respectfully traversed because Blanchard fails to disclose the features set forth in independent claims 1, 11, 21, and 30 and the claims that depend therefrom.

Independent claim 1 has been amended herein to include the allowable subject matter of claim 14.

Independent claim 11 has been amended herein to include the features of allowable claim 15.

Independent claim 21 has been amended herein to include the features of allowable claim 25.

Independent claim 30 has been amended herein to include the features of allowable claim 33.

Accordingly, Blanchard fails to teach the features of independent claims 1, 11, 21, and 30. Therefore, the Examiner is respectfully requested to withdraw the rejection and allow the claims.

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Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claim 4 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Ohta. This rejection is respectfully traversed because Blanchard and Ohta, taken alone or in combination fail to teach or suggest the invention as set forth in independent claim 1, for the reasons set forth above. Therefore, claim 4 is at least allowable by virtue of its dependence on allowable claim 1.

Claims 5, 6, 8, 12, 13, 16, 23, 24, 26, 31, 32, and 34 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Nonomura. This rejection is respectfully traversed because Blanchard and Nonomura, taken alone or in combination fail to teach or suggest the invention as set forth in independent claims 1, 11, 21, and 30, for the reasons set forth above. Therefore, claims 5, 6, 8, 12, 13, 16, 23, 24, 26, 31, 32, and 34 are at

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least allowable by virtue of their respective dependence on allowable claims 1, 11, 21, and 30.

Claim 7 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Ellis. Claim 7 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Ellis. This rejection is respectfully traversed because Blanchard and Ellis, taken alone or in combination fail to teach or suggest the invention as set forth in independent claim 1, for the reasons set forth above. Therefore, claim 7 is at least allowable by virtue of its dependence on allowable claim 1.

Claims 9, 10, 17, and 18 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Blanchard in view of Setogawa. This rejection is respectfully traversed because Blanchard and Setogawa, taken alone or in combination fail to teach or suggest the invention as set forth in independent claims 1 and 11 for the reasons set forth above. Therefore, claims 9, 10, 17, and 18 are at least allowable by virtue of their respective dependence on allowable claims 1 and 11.

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Conclusion


In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: March 19, 2007

By


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